

## MRS. AIMEE HOYNINGEN-HUENE

SEPTEMBER 17 (legislative day, SEPTEMBER 13), 1951.—Ordered to be printed

Mr. McCARRAN, from the Committee on the Judiciary, submitted the following

## REPORT

[To accompany H. R. 676]

The Committee on the Judiciary, to which was referred the bill (H. R. 676) for the relief of Mrs. Aimee Hoyningen-Huene, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

## PURPOSE OF THE BILL

The purpose of the bill is to preserve for Mrs. Aimee Hoyningen-Huene her United States citizenship notwithstanding the fact that she voted in an election in Germany in 1946, thereby losing her citizenship under the provisions of section 401 (e) of the Nationality Act of 1940. The bill also provides for the repeal of Private Law 814 of the Eighty-first Congress, which permitted Mrs. Hoyningen-Huene to regain her United States citizenship by taking the necessary oath within 1 year following the effective date of the act which was approved on August 14, 1950.

## STATEMENT OF FACTS

The beneficiary of the bill was born in Hartford, Conn., on October 6, 1903. She is a widow and has six children, two of whom are United States citizens while the remaining four are residents of the United States. She lost here United States citizenship by voting in 1946 in Hesse, Germany, for the new Hessian Constitution. She is living on a farm in Maine with five of her children, while the other child attends school in Woodstock, Vt.

A letter dated April 28, 1950, to the chairman of the Committee on the Judiciary of the House of Representatives from the assistant to the Attorney General with reference to H. R. 6225, which was a bill intro-

duced in the Eighty-first Congress for the relief of the same individual, reads as follows:

APRIL 28, 1950.

HON. EMANUEL CELLER,  
Chairman, Committee on the Judiciary,  
House of Representatives, Washington, D. C.

MY DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice relative to the bill (H. R. 6225) for the relief of Mrs. Aimee Hoyningen-Huene.

The bill would provide that the provisions of section 401 (e) of the Nationality Act of 1940, as amended (8 U. S. C. 801 (e)), relating to loss of nationality through voting in a political election in a foreign state, shall not apply in the case of Mrs. Aimee Hoyningen-Huene, of Brunswick, Maine, in respect of her participation in elections held in Germany in 1947.

The files of the Immigration and Naturalization Service of this Department disclosed that the alien named above, whose maiden name was Aimee Ellis, claims to be a citizen of the United States by reason of her birth at Hartford, Conn., on October 6, 1903, of United States citizen parents, and the evidence in the files is sufficient to satisfactorily establish her claim of birth in this country. It further appears that Mrs. Hoyningen-Huene resided continuously in the United States from the date of her birth until she was married to Mr. Heinrich Nikolai Freiherr Von Hoyningengennant-Huene, a native of St. Petersburg, Russia, who was naturalized as a citizen of Germany in 1919, having fled there during the Russian revolution. He was killed while serving in the German Army during World War II on July 23, 1941. Of this marriage there are six children, all of whom were born in Germany. Mrs. Hoyningen-Huene secured a United States passport from the American consul at Frankfurt, Germany, on September 15, 1947, and, accompanied by her two youngest daughters, last arrived at the port of New York on November 10, 1947, when all were admitted as citizens of the United States. The four oldest children entered this country at the port of New York on July 26, 1948, when they were admitted for permanent residence as nonquota immigrants.

The files further reflect that, when questioned under oath by an officer of the Immigration and Naturalization Service on February 4, 1949, regarding her immigration status, Mrs. Hoyningen-Huene stated she had never been naturalized in any foreign country and had never taken an oath of allegiance or made formal declaration of allegiance to any foreign state, but that she had voted three times in political elections in Germany, once in Berlin, and twice in Blumenholz, and that her actions in so voting were voluntary. In a subsequent sworn statement, however, she asked to rectify her prior testimony regarding the number of times she had voted in the German elections, stating that she voted in the spring or summer of 1947 in Hesse, Germany, for the new Hessian Constitution and that voting was restricted to nationals of Germany. She also stated that this occurred after she had contacted the American consulate in Frankfurt in connection with her application for an American passport. It has now been definitely established by the Immigration and Naturalization Service of this Department and the Department of State that Mrs. Hoyningen-Huene expatriated herself under the provisions of section 401 (e) of the Nationality Act of 1940, by voting in a foreign election (in Hesse) in the year 1947. Therefore, it appears that she and her alien children, who were admitted to the United States as nonquota immigrants under section 4 (a) of the Immigration Act of 1924 are subject to expulsion from the United States. Proceedings to effect her enforced departure from this country, however, were ordered held in abeyance pending congressional action on this bill.

Mrs. Hoyningen-Huene stated that she had no definite future plans for herself, and that, therefore, when she returned to the United States she had no intention either to remain here or return to Germany, that her thought was for her children, that she only wanted them to become United States citizens. She and all her children except Christian, who is attending school in Woodstock, Vt., live on a 70-acre farm which she purchased with money given her by her relatives for that purpose. In addition to the earnings from her farm, she stated that she receives \$1,300 yearly from her brother, Mr. George Carson Ellis, of Lake Forest, Ill., which represents his half of the income from their mother's estate and that her half is being held by the Alien Property Office. All persons who were interviewed spoke favorably of her loyalty to the United States and believe she is a person of good moral character.

Although the quota of Germany, to which Mrs. Hoyningen-Huene is chargeable, is oversubscribed and a quota immigration visa is not readily obtainable, she may be eligible for suspension of deportation pursuant to section 19 (c) (2) of the Immigration Act of 1917, as amended, if she can show that her deportation would result in a serious economic detriment to her two youngest children, Dorothee and Sigrid, who accompanied her to the country, and who are citizens of the United States under applicable nationality laws. Both are living with and being supported by her.

Inasmuch as Mrs. Hoyningen-Huene has not exhausted the administrative remedy provided by the general provisions of the immigration laws, and her case does not appear to warrant special legislation this Department is unable to recommend the enactment of the measure.

Yours sincerely,

PEYTON FORD,  
*The Assistant to the Attorney General.*

The files of the Committee on the Judiciary of the House of Representatives contain the following letter and brief in support of the bill:

MANCILL, COONEY, OTT & SEMANS,  
*Philadelphia, Pa., May 15, 1950.*

Re H. R. 6225 and S. 2601 (bills for the relief of Mrs. Aimee Hoyningen-Huene).

Congressman FRANCIS E. WALTER,  
*Old House Office Building, Washington, D. C.*

DEAR CONGRESSMAN WALTER: I wish to thank you for the kind consideration you gave the above matter during our meeting in your office last Thursday.

I am enclosing a brief which was prepared by this office in support of the subject bills, which may be of some assistance to you.

Senator Green, of Rhode Island, who is sponsoring the companion bill to H. R. 6225, received, on the date of my visit to you, a report from the Department of Justice identical to the one received by Congressman Celler. This report was forwarded to Senator Green from Hon. Pat McCarran. I have reported to Senator Green the fact that I had brought this matter to your attention, and he is greatly relieved to know that you have taken an interest in the matter. Both Senator Green and Congressman Hale are attempting to get the Department of Justice to rectify the errors and oversights contained in its report.

As I pointed out to you, the principal purpose of these private bills is to retain Mrs. Huene's citizenship so that the four, older, minor children will not be deported from the country, nor will her property in the hands of the Alien Property Custodian be confiscated. This seems to be overlooked by the Department of Justice.

Very truly yours,

MANCILL, COONEY, OTT & SEMANS.  
DONALD W. HEDGES.

BRIEF IN SUPPORT OF S. 2601 AND H. R. 6225, BILLS FOR THE RELIEF OF MRS.  
AIMEE HOYNINGEN-HUENE

1. Purpose of these bills is to prevent Mrs. Aimee Hoyningen-Huene from losing her United States citizenship as a result of the application of section 401 (e) of the Nationality Act of 1940, as amended (U. S. C., title 8, sec. 801 (e) (relating to loss of nationality through voting in a political election in a foreign state) to her participation in the election held in Germany, under the auspices of the United States military government in 1947 with respect to the adoption of the new Hessian Constitution.

2. *Facts upon which bills are based.*—Mrs. Hoyningen-Huene, born in the United States of native parents, was married on October 6, 1928, to a German subject, and thereafter lived in the home provided for her by her husband in Germany until the termination of World War II. Inasmuch as her husband had been killed in the war, Mrs. Hoyningen-Huene was no longer under a duty to live in Germany. She, therefore, in the fall of 1946 made application at the United States consulate, in Frankfort, Germany, to return to the United States, at which time she was asked if she had voted in Germany. She replied in the affirmative, giving the dates and stating that she had voted several times, after she had been misadvised, and consequently believed that she had lost her United States citizenship in spite of her desire to retain it.

At her next visit to the consulate, she was advised that the matter of her voting in Germany has been taken up with the State Department in Washington,

D. C., and that it had been decided that the fact she had voted in Germany did not affect her status as a United States citizen.

The dates upon which she had voted were prior to the Nationality Act of 1940 but the significant difference in the participation in a foreign election after the Nationality Act of 1940 was either misstated or not explained to Mrs. Hoyningen-Huene, as she was informed by the representative at the United States consulate in Frankfort, Germany, merely that, "Your voting makes no difference." After being so advised by the United States consul in Frankfort, Germany, and while awaiting passage to the United States, the first free voting in Germany under the American military government for the New Hessian Constitution took place. Having been advised that acts of voting in Germany during the Hitler regime had not affected her citizenship status, the thought did not enter her mind that voting under the auspices of the American military government for a constitution would affect it. Moreover, she believed, in accordance with her United States background and training, that the right of franchise was a responsibility which should not be shirked. Accordingly, she entered her vote.

3. *Merits of the bills.*—(a) Mrs. Hoyningen-Huene is a credit to the United States as a citizen. She was born in the United States of native parents, and is generally conceded to be the type of person that is an asset to any community in which she resides. All who meet her are impressed with her high moral standards, her integrity, her intelligence, and her seriousness of purpose. She has also shown remarkable courage and industry in taking over an old farm in Maine and converting it into a suitable home for her five children, to whom she is devoted and whom she is raising in the accepted American tradition. In fact, Mrs. Hoyningen-Huene has many of the characteristics of the early pioneer who made the United States great and that the United States now needs as a citizen to maintain its greatness.

(b) Application of the Nationality Act of 1940 in this case would be unduly severe on not only Mrs. Hoyningen-Huene but also her children, as it would result in their deportation also at this time when they would have no means of support or livelihood in a foreign state.

(c) Mrs. Hoyningen-Huene should not be penalized for an act which helped the United States. She cast her vote in favor of democratic forces in Germany and against the Communist forces there. She did this after she had been misinformed or after she had very understandably misinterpreted the remark of the United States consulate official in Frankfort that voting in Germany had not affected her United States citizenship. She had not been told of the change in law which made voting an act of expatriation after the effective date of the act of October 14, 1940. Accordingly, she believed that she could assist the United States by exercising the right of franchise which she held under German law, and accordingly voted. It would, therefore, appear that a grave injustice would be done if Mrs. Hoyningen-Huene were to be penalized, pursuant to the provisions of the Nationality Act of 1940 for doing an act which she believed and which, in actual fact, did serve the best interests of the United States.

4. *Conclusion.*—Passage of S. 2601 and H. R. 6225 will serve the best interests of the United States and will prevent a grave injustice from being done to a United States citizen.

H. R. 6225 of the eighty-first Congress was enacted on August 14, 1950, as Private Law 814 and reads as follows:

[PRIVATE LAW 814—81ST CONGRESS]

[CHAPTER 712—2D SESSION]

[H. R. 6225]

AN ACT For the relief of Mrs. Aimee Hoyningen-Huene

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That Mrs. Aimee Hoyningen-Huene, a natural-born citizen of the United States born in Hartford, Connecticut, on October 6, 1903, who lost citizenship by voting in the elections held in Germany, under the auspices of the United States military government, in 1946 with respect to the adoption of the new Hessian Constitution, may be naturalized by taking, prior to one year from the enactment of this Act, before any naturalization court specified in subsection (a) of section 301 of the Nationality Act of 1940, as amended, the oaths prescribed by section 335 of the said Act. From and after naturaliza-



tion under this Act, Mrs. Aimee Hoyningen-Huene shall have the same citizenship status as that which existed immediately prior to its loss.

Approved August 14, 1950.

The necessity for the repeal of Private Law 814, Eighty-first Congress, and the substitution of new legislation has been presented to a subcommittee of the Committee on the Judiciary of the House of Representatives by Congressman Robert Hale, the author of the bill. Congressman Hale has submitted the following correspondence to the Committee on the Judiciary of the House of Representatives in support of the present bill:

MANCILL, COONEY, OTT & SEMANS,  
*Philadelphia, Pa., November 27, 1950.*

Re Mrs. Aimee Von Hoyningen-Huene.

Congressman ROBERT HALE,  
*House of Representatives, Washington, D. C.*

DEAR CONGRESSMAN HALE: Private bill H. R. 6225, introduced by you in the Eighty-first Congress and which was enacted on August 14, 1950, as Public Law 814, for the relief of Mrs. Hoyningen-Huene, was intended to prevent the loss of citizenship of Mrs. Hoyningen-Huene and her subsequent deportation, as well as the deportation of some of her children who entered this country as nonquota immigrants. Also, the bill was intended to prevent the confiscation of her entire remaining monetary possessions which are in the custody of the Office of Alien Property because of a citizenship question.

As you know, Mrs. Hoyningen-Huene's unfortunate citizenship problem arose as a result of her act of voting in Germany in 1946 for a Hessian Constitution in an election held under the auspices of the American military government, when she had reason to believe that such an act would not affect her citizenship status. Details of this are set forth in my brief, appearing in the committee reports.

H. R. 6225, Eighty-first Congress, was amended in the House Judiciary Committee so that Mrs. Hoyningen-Huene would be allowed to regain her American citizenship by going through naturalization proceedings within 1 year, and the bill was passed and enacted as Public Law 814 in that form.

This amendment of the bill did not preserve Mrs. Hoyningen-Huene's original American citizenship and, consequently, serious results were caused by this amendment, namely, four of Mrs. Hoyningen-Huene's six children, who entered this country as nonquota immigrants, appear to be here illegally, and her claim for the return of her entire remaining funds in the custody of the Office of Alien Property would remain in jeopardy.

You have asked me if Public Law 814 must be amended in order to satisfy citizenship requirements in her claim with the Office of Alien Property. In order to ascertain this, I have secured the attached thorough opinion from the Office of Alien Property, dated November 7, 1950.

You will see from this opinion that it is clearly necessary that Public Law 814, Eighty-first Congress, approved August 14, 1950, be amended to the wording of H. R. 6225, Eighty-first Congress, as introduced, if the relief originally intended is to be obtained for this unfortunate woman.

I would like to point out again at this time that the date, "1947," appearing in the original form of H. R. 6225, Eighty-first Congress, should be changed to "1946," as it has been discovered by Mrs. Hoyningen-Huene that this was the year of the election.

Sincerely yours,

MANCILL, COONEY, OTT & SEMANS.  
DONALD W. HEDGES.

DEPARTMENT OF JUSTICE,  
OFFICE OF ALIEN PROPERTY,  
Washington, D. C., November 7, 1950.

Claim No. 31980. Attention: Donald W. Hedges, Esq. Re Aimee von Hoyningen-Huene.

MANCILL, COONEY, OTT & SEMANS,  
Attorneys at Law, Philadelphia, Pa.

GENTLEMEN: Reference is made to your letters of October 4, 23, and 25, 1950, all raising questions with respect to the eligibility of the claimant under section 32 of the Trading With the Enemy Act (50 U. S. C. App. 32) and the recent amendment to this section provided by Public Law 859, Eighty-first Congress, second session, approved September 29, 1950.

As you recognize in your letters, except where Public Law 859 applies, a German resident in Germany during the war who does not establish enemy persecution within the meaning of the act is not entitled to a return of vested property even if the claimant was at the same time an American citizen. Public Law 859 for the first time authorized return to such dual nationals in cases of "an individual who at all times since December 7, 1941, was a citizen of the United States, or \* \* \* an individual who, having lost United States citizenship solely by reason of marriage to a citizen or subject of a foreign country, reacquired such citizenship prior to the date of enactment of this provision if such individual would have been a citizen of the United States at all times since December 7, 1941, but for such marriage \* \* \*."

As I understand the facts presented by your letters, the claimant was a natural-born citizen of the United States who lost her citizenship as a result of voting in an election held in Germany. I also understand that she did not reacquire American citizenship prior to September 29, 1950. Under these circumstances and despite the amendment to section 32 of the act as provided by Public Law 859, it is my opinion that the claimant would not be eligible for a return. Private Law 814, Eighty-first Congress, approved August 14, 1950, authorizes the claimant to be naturalized "by taking, prior to 1 year from the enactment of this act, before any naturalization court specified in subsection (a) of section 301 of the Nationality Act of 1940, as amended, the oaths prescribed by section 335 of the said act \* \* \*." The private law also provides "and after naturalization under this act, Mrs. Aimee Hoyningen-Huene shall have the same citizenship status as that which existed immediately prior to its loss." It would appear clear therefore that naturalization under Private Law 814 would not permit the claimant to claim that she was an American citizen "at all times since December 7, 1941."

You will appreciate that I cannot advise you what action this Office might take under any contemplated legislation affecting the claimant. It appears clear to me however that Private Law 814 does not enable the claimant to qualify under the proviso added by Public Law 859 because the claimant did not lose American citizenship "solely by reason of marriage to a citizen or subject of a foreign country" and because she did not reacquire such citizenship prior to September 29, 1950, the date of its enactment. Should any legislation be enacted which would establish that the claimant was an American citizen at all times since December 7, 1941, she would appear to come within the conditions of Public Law 859.

You point to the original provisions of H. R. 6225 (which was amended and enacted as Private Law 814) and ask whether those provisions if enacted into law would qualify the claimant for return. I regret I cannot answer this question categorically. H. R. 6225 limits its applicability to a loss of citizenship as a result of voting in an election in 1947, while your letter of October 23 refers to an election in 1946. Moreover, an investigation might reveal other elections or other circumstances under which the claimant lost American citizenship. Accordingly, I can only indicate generally that any legislation which establishes that the claimant was an American citizen at all times since December 7, 1941, would appear to bring her within the Public Law 859 proviso. As you have yourself noted in your letter of October 25, I cannot advise you whether the claimant meets the requirements, other than eligibility, of section 32 as such other issues have not yet been given any consideration.

Sincerely yours,

JULIUS SCHLEZINGER,  
Chief, Claims Branch, Office of Alien Property.

A letter dated June 4, 1951, to the chairman of the Senate Committee on the Judiciary from the Deputy Attorney General with reference to the case reads as follows:

JUNE 4, 1951.

Hon. PAT McCARRAN,  
*Chairman, Committee on the Judiciary,  
United States Senate, Washington, D. C.*

MY DEAR SENATOR: This is in response to your request for the views of the Department of Justice relative to the bill (H. R. 676) for the relief of Mrs. Aimee Hoyningen-Huene, an alien, which bill passed the House of Representatives on February 20, 1951, and has been referred to your committee.

The bill would provide that notwithstanding the provisions of section 401 (e) of the Nationality Act of 1940, as amended (8 U. S. C. 801 (e)), relating to loss of nationality through voting in a political election in a foreign state, Mrs. Aimee Hoyningen-Huene, of Brunswick, Maine, shall not be deemed to have lost her American citizenship by virtue of having voted in elections held in Germany under the auspices of United States military government in 1946 with respect to the adoption of the new Hessian Constitution. It would also repeal Private Law 814, Eighty-first Congress, enacted August 14, 1950, which granted her the right to be naturalized by taking the oaths prescribed by the Nationality Act of 1940, as amended.

The files of the Immigration and Naturalization Service of this Department disclose that Mrs. Hoyningen-Huene, whose maiden name was Aimee Ellis, was born in Hartford, Conn., on October 6, 1903, of United States citizen parents. She claims to have resided continuously in this country from the date of her birth until 1927, when she left for a tour of Europe, returning in June or July of 1928. She left the United States again in August 1928, and on October 6, 1928, was married to Heinrich Nikolai Feuherr von Hoyningengennant Huene, a native of St. Petersburg, Russia, who fled from that country during the Revolution and became a citizen of Germany in 1919. There are six German-born children of this marriage, ranging in age from 9 to 23 years. Mr. Hoyningen-Huene was killed on July 23, 1941, while serving in the German Army.

Mrs. HOYNINGEN-HUENE and her two youngest daughters entered the United States at the port of New York on November 10, 1947, when they were admitted as United States citizens. These daughters, who were born in 1937 and 1941, respectively, derived United States citizenship through their mother who was a citizen at the time of their birth. The other four children who were born prior to the act of May 24, 1934, were admitted at the port of New York on July 26, 1948, for permanent residence under section 4 (a) of the Immigration Act of 1924, as the unmarried children under 21 years of age of a citizen of the United States. In 1949, however, it was established that Mrs. Hoyningen-Huene had expatriated herself under the provisions of section 401 (e) of the Nationality Act of 1940, by voting in a political election in Germany in 1946. It thus appeared that she and her four alien children who were admitted as non-quota immigrants were subject to deportation proceedings. Efforts to effect their enforced departure were ordered held in abeyance pending congressional action on S. 2601 and H. R. 6225, Eighty-first Congress.

H. R. 6225 was amended to permit Mrs. Hoyningen-Huene's naturalization by taking the prescribed oaths and to restore to her the same citizenship status which existed immediately prior to its loss. That bill was approved on August 14, 1950, and became Private Law 814. While more than 9 months have elapsed since this enactment it does not appear that Mrs. Hoyningen-Huene has availed herself of the extraordinary privilege granted her by that legislation. Instead she is seeking the enactment of new legislation which would provide that she shall be considered never to have lost her United States citizenship. The evident purpose of this proposed legislation is to qualify her for the return of property, valued at approximately \$100,000 and vested by the United States Government, under section 32 of the Trading With the Enemy Act, as amended by Public Law 859, Eighty-first Congress, which requires that a claimant for the return of property must have held United States citizenship at all times since December 7, 1941.

Mrs. Hoyningen-Huene resided in Germany from early adulthood until her last entry into this country in November 1947. She stated that she had roots of the soul and heart in Germany, had lived and suffered 20 years in that country, and

that she would not have come back to this country except for the sake of her children. She and her four eldest children are presently in the United States in an illegal status, and yet she has not availed herself of the opportunity of regaining her citizenship under Private Law 814 supra. Unless there are sound reasons for her failure to take advantage of Private Law 814, it would seem that Mrs. Hoyningen-Huene places a minimum value on the privilege of United States citizenship.

It may further be stated that there were many United States citizens in Germany and other countries who voted in political elections in those countries. Some of them, no doubt, now desire eligibility as claimants for the return of property vested by the Government of this country under section 32, supra, but are precluded by law from qualifying for such eligibility. There appear to be no considerations in this case which would justify the enactment of special legislation granting Mrs. Hoyningen-Huene a preference over such other former citizens of the United States.

For the above reasons, the Department of Justice is unable to recommend enactment of the measure.

Yours sincerely,

PEYTON FORD,  
Deputy Attorney General.

The committee, after consideration of all the facts in the case, is of the opinion that the bill (H. R. 676) should be enacted.

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